

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

KIDSPEACE CORPORATION,)	
)	
Plaintiff,)	Civ. No. 07-1864 MJD/SRN
)	
v.)	
)	
LEXINGTON INSURANCE COMPANY,)	
)	
Defendant.)	

**MOTION FOR SUMMARY JUDGMENT OF PLAINTIFF KIDSPEACE
CORPORATION**

Plaintiff KidsPeace Corporation, by and through its counsel, Briggs and Morgan, P.A. and Gross McGinley, LLP, pursuant to Rule 56(b) of the Federal Rules of Civil Procedure and Rule 7.1 of the Local Rules of Civil Procedure, hereby respectfully moves the Court for Summary Judgment in its favor and against Defendant Lexington Insurance Company, for the reasons stated in the accompanying Memorandum of Law, which sets forth the points, arguments, and authorities on which KidsPeace Corporation relies, and which is incorporated herein by reference as if fully set forth at length.

Specifically, KidsPeace Corporation requests that this Court:

(i) declare that the Healthcare General Liability Coverage of the policy of insurance issued to KidsPeace Corporation by Lexington Insurance Company, Policy No. 2004826, obligates Lexington Insurance Company to indemnify KidsPeace Corporation for settlement payments and to reimburse defense costs incurred in connection with

claims brought against KidsPeace Corporation by TJ in the matter of TJ v. Mesabi Academy of KidsPeace, Inc., KidsPeace Corporation, et al., 04CV2847, United States District Court for the District of Minnesota (the “TJ Litigation”); and

(ii) enter judgment in favor of Plaintiff KidsPeace Corporation and against Lexington Insurance Company, and award KidsPeace Corporation \$600,000.00 in damages for payments made by KidsPeace Corporation in settlement of the claims brought against it by TJ in the TJ Litigation, and further award KidsPeace Corporation \$168,311.71 in damages for the defense costs it incurred in connection with the TJ Litigation.

Wherefore Plaintiff KidsPeace Corporation respectfully requests that Summary Judgment be entered in its favor and against Defendant Lexington Insurance Company.

Respectfully submitted,

BRIGGS AND MORGAN, P.A.

Date: February 2, 2009

BY: /s/ W. Patrick Judge
W. PATRICK JUDGE, ESQUIRE
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